SB Civil Writ Petition No.7138/2005

Pali Zila Pradushan Avam Anusandhan Foundation Trust
v.
The Authority under payment of Wages Act, Pali & Ors.

Date of Order :: 15th December, 2005

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. K.K.Shah, for the petitioner.

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By this petition for writ a challenge is given to the judgment dated 6.5.2005 passed by the prescribed authority under Payment of Wages Act, 1936 (hereinafter referred to as "the Act of 1936), Pali in Payment of Wages Cases No.41/97 to 102/97.

By the judgment impugned dated 6.5.2005 the prescribed authority accepted the claim raised by the workmen under Section 15(2)(3) of the Act of 1936 for the wages due.

An order passed under Section 15 of the Act of 1936 is appealable under Section 17 of the Act of 1936. The petitioner has not availed the remedy of appeal as prescribed.

It is contended by counsel for the petitioner that the remedy of appeal is not availed by the petitioner being the order impugned without

jurisdiction as the claimant workmen were never in employment of the petitioner.

The prescribed authority under the Payment of Wages Act while adjudicating the claim petitions framed two issues out of which the issue No.1 is that whether the claimant workmen were in employment of the non-claimants No.1 and 2. The prescribed authority after considering evidence available on record held that the claimants were in employment of the non-claimants. If the petitioner want to challenge the finding given by the prescribed authority then the remedy available to him is under Section 17 of the Act of 1936. Merely on basis of contention of the petitioner that the claimants were not in its employment, it cannot be held that the prescribed authority acted beyond the jurisdiction vested with.

I do not find any reason to entertain the present writ petition under Articles 226 and 227 of the Constitution of India ignoring the remedy provided under Section 17 of the Act of 1936 which is an efficacious alternative remedy available to the petitioner.

The writ petition, therefore, is dismissed.

(GOVIND MATHUR),J.

kkm/ps.